

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
SOUTHERN DIVISION

JOILYNN KAREGA-MASON,

Plaintiff,

v.

CASE NO. 1:18-cv-2587

HON. OLIVER SOLOMON, JR.

OBERLIN COLLEGE, a corporation,  
MARVIN KRISLOV, TIMOTHY  
ELGRIN and CLYDE S.  
McGREGOR,

Defendants.

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LAW OFFICE OF GARY  
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**DEFENDANTS' ANSWER AND AFFIRMATIVE DEFENSES  
TO FIRST AMENDED COMPLAINT FILED AS OF RIGHT**

NOW COME Defendants, Oberlin College, Marvin Krislov, Timothy Elgrin  
and Clyde S. McGregor, by their attorneys, Dickinson Wright PLLC, and answer  
Plaintiff's First Amended Complaint Filed as of Right as follows:

## **JURISDICTION AND VENUE**

1. Defendants neither admit nor deny because the allegations call for legal conclusions. Further answering, Defendants do not challenge jurisdiction.

2. Defendants neither admit nor deny because the allegations call for legal conclusions. Further answering, Defendants do not challenge jurisdiction.

3. Defendants neither admit nor deny because the allegations call for legal conclusions. Further answering, Defendants do not challenge venue.

4a. Upon information and belief, Defendants admit that Plaintiff filed an EEOC Charge on August 29, 2016, the same day she was informed by President Krislov that the review process might result in her suspension or dismissal from employment. Further answering, Defendants neither admit nor deny because the Charge speaks for itself and is the best evidence of its contents.

4b. Upon information and belief, Defendants admit that Plaintiff filed a second Charge on or about January 17, 2017. Further answering, Defendants neither admit nor deny because the Charge speaks for itself and is the best evidence of its contents.

4c. Defendants neither admit nor deny because they are without sufficient knowledge or information to form a belief as to the truth of the allegations.

4d. Defendants neither admit nor deny because the allegations call for legal conclusions.

4e. Upon information and belief, Defendants admit.

### **THE PARTIES**

5a. Defendants admit.

5b. Defendants admit only that Marvin Krislov was the President of Oberlin College from July 1, 2007 until June 30, 2017.

5c. Defendants admit only that Timothy Elgren was in the position of Chair and Dean of Arts & Science and the Chair of the College Faculty Council of Oberlin College from July 1, 2014 until May 29, 2018.

5d. Defendants admit only that Clyde S. McGregor served as Chair of the Board of Trustees of Oberlin College from July 1, 2014 until June 30, 2017.

6. Defendants admit.

7. Defendants deny.

### **FACTUAL ALLEGATIONS**

8. Defendants admit.

9. Defendants deny.

10. Defendants deny.

11. Defendants deny, including subparagraphs (a) through (h).

12a. Defendants admit.

12b. Defendants neither admit nor deny, including subparagraphs (a) through (d), because the Findings speak for themselves and are the best evidence of their contents.

12c. Defendants deny because pursuant to College PCRC procedures, the matter went to the General Faculty Council for review where a plurality recommended termination; to the President, who recommended termination; and ultimately to the Oberlin College Board of Trustees, which issued a decision concurring with the GFC's determination and the President's recommendation of termination.

12d. Defendants deny.

12e. Defendants deny.

13. Defendants admit.

**COUNT I**  
**BREACH OF CONTRACT**

14. Defendants restate their answers to paragraphs 1 through 13 as though fully stated herein.

15a. Defendants neither admit nor deny because the allegations call for legal conclusions.

15b. Defendants neither admit nor deny because the allegations call for legal conclusions.

16. Defendants deny.

17. Defendants deny.

WHEREFORE, Defendants request that this Court enter a judgment of no cause of action in their favor and against Plaintiff and award Defendants their reasonable costs and attorneys' fees and such other relief as this Court deems just and proper.

**COUNT II**  
**EMPLOYMENT DISCRIMINATION IN VIOLATION**  
**OF TITLE VII OF THE CIVIL RIGHTS ACT OF 1964**

18. Defendants restate their answers to paragraphs 1 through 17 as though fully stated herein.

19. Defendants neither admit nor deny because the allegations call for legal conclusions.

20. Defendants neither admit nor deny because the allegations call for legal conclusions.

21. Defendants deny.

22. Defendants deny.

23. Defendants deny.

WHEREFORE, Defendant Oberlin College requests that this Court enter a judgment of no cause of action in its favor and against Plaintiff and award Defendant Oberlin College its reasonable costs and attorneys' fees and such other relief as this Court deems just and proper.

**COUNT III**  
**VIOLATION OF THE**  
**CIVIL RIGHTS ACTS OF 1991 42 U.S.C. 1981**

24. Defendants restate their answers to paragraphs 1 through 23 as though fully stated herein.

25. Defendants neither admit nor deny because the allegations call for legal conclusions.

26. Defendants deny.

27. Defendants deny.

28. Defendants deny.

WHEREFORE, Defendants request that this Court enter a judgment of no cause of action in their favor and against Plaintiff and award Defendants their reasonable costs and attorneys' fees and such other relief as this Court deems just and proper.

**COUNT IV**  
**RETALIATION AGAINST PLAINTIFF**  
**IN VIOLATION OF THE CIVIL RIGHTS ACT OF 1964**

29. Defendants restate their answers to paragraphs 1 through 28 as though fully stated herein.

30. Defendants neither admit nor deny because the allegations call for legal conclusions.

31. Defendants deny.

32. Defendants deny.

33. Defendants deny.

WHEREFORE, Defendant Oberlin College requests that this Court enter a judgment of no cause of action in its favor and against Plaintiff and award Defendant Oberlin College its reasonable costs and attorneys' fees and such other relief as this Court deems just and proper.

**DEFENDANTS' AFFIRMATIVE AND/OR SPECIAL DEFENSES**

Defendants Oberlin College (“Oberlin”), Marvin Krislov, Timothy Elgren, and Clyde S. McGregor (collectively, “Defendants”), by their attorneys, Dickinson Wright PLLC, for their Affirmative and/or Special Defenses, state as follows:

1. Plaintiff fails to state a claim upon which relief can be granted.
2. Any decision with respect to Plaintiff’s employment was made for legitimate, non-retaliatory and/or non-discriminatory business reasons.
3. Plaintiff is barred from any remedy because Plaintiff’s damages, if any, were caused in whole or in part by Plaintiff’s own misconduct during her employment at Defendant Oberlin.
4. Defendants cannot be held liable for punitive damages because they engaged in good faith efforts to prevent discrimination and retaliation and to comply with all anti-discrimination and other applicable laws.

5. Plaintiff's claims for punitive damages are vague and subjective and, therefore, unconstitutional.

6. Plaintiff is not entitled to exemplary damages.

7. Plaintiff failed to mitigate her damages, if any.

8. Plaintiff's damages, if any, may be barred or limited because of after-acquired evidence.

9. Plaintiff's claims are barred in whole or in part by the applicable statutes of limitations and/or statutes of repose.

10. Plaintiff's claims are barred, in whole or in part, due to the doctrine(s) of estoppel, unclean hands, waiver, release, laches, and/or accord and satisfaction.

11. Defendants reserve the right to amend these Affirmative Defenses to add such other affirmative defenses that may become known.

DICKINSON WRIGHT PLLC

By: /s/ Timothy H. Howlett

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Attorneys for Defendants

Dated: June 12\_, 2019



**CERTIFICATE OF SERVICE**

I certify that on June 12, 2019, I electronically filed the foregoing *Defendants' Answer and Affirmative Defenses to First Amended Complaint Filed as of Right* with the Clerk of the Court using the ECF system, which will send notification of such filing to all parties of record.

/s/ Colleen L. Maguire

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